

**COMMISSIONER'S BULLETINS
BOSTON INSPECTIONAL SERVICES**

YEAR 2000

Number: 2000-6
Date: May 23, 2000

Page 1 of 1

Subject:

BOSTON ZONING CODE ARTICLE 2, § 44 AND ARTICLE 2A;
DEFINITION OF "STREET"

Purpose: To ensure the consistent application of the Boston Zoning Code definition of "street" and its applicability to private ways when reviewing applications for building permits.

Determinations:

1. ISD employees are to use the following Zoning Code definition and interpretation when determining if a private way is a "street."
2. For the purposes of applying the definition of the word "street," the Boston Zoning Code, Article 2, § 44 and Article 2A both define "street" as: a public way, alley, lane, court, sidewalk and such parts of public squares and public places as form traveled (sic) parts of highways.
3. When determining whether a private way is a "street," employees shall reference the latest edition of "Boston's Streets, Squares, Places, Avenues, Courts and other Public Locations" as prepared by the City of Boston's Public Works Department (the "Street Directory").
4. Employees shall also determine if the private way is open and available for public passage, either paved or hardpack soil, and not designated as a "paper street." This determination shall be made by the registered Land Surveyor for the proposed project, and shall be shown on the site plans submitted for project review.

5. If a private way is listed in the Street Directory, and it is open and available for public passage, it is a "street" for the purposes of applying the definitions in Articles 2 and 2A.
6. This bulletin memorializes and is consistent with past and existing practice.

Signed: 
Commissioner
Inspectional Services Department

Number: 2000-5**PAGE 1 OF 1****Date:** May 1, 2000

Subject:

INTERIM PROCEDURES FOR ISSUING BUILDING PERMITS FOR WORK
REQUIRING G-12 LICENSES

Determination:

The City of Boston Board of Examiners is presently reviewing its criteria for accepting applications for G-12 licenses.

Pending conclusion of review the following procedure is established for issuing building permits in the interim:

1. The Board of Examiners will accept and file all applications tendered for G-12 licenses.
2. The Boston Inspectional Services Department shall issue building permits for G-12 work provided that:
 - A. The applicant has an application for a G-12 license on file with the Board of Examiners and ;
 - B. The applicant is deemed qualified to undertake the proposed work by the building official.
3. This policy is effective immediately, and shall automatically terminate without notice at the end of thirty days from the date of this bulletin unless it is extended in writing.

Signed:
Commissioner**Inspectional Services Department**

Number: 2000-04

Page 1 of 2

Date: March 29, 2000

Subject:**ADMINISTRATIVE PROCEDURE FOR ANSWERING REQUEST FOR PUBLIC DOCUMENTS**

Purpose:

By law, members of the public are entitled to receive copies of or access to public records. The policy contained in this Commissioner's Bulletin is established to ensure that Boston Inspectional Services Department (BISD) effectively and consistently complies with the requirements of the Massachusetts Public Records Law, G.L. c. 66 § 10, which provides access to governmental records to members of the public.

Determination:

1. The public records law is administered by the Secretary of State, who has issued guidelines for compliance with the law. The guidelines contained in this Commissioner's Bulletin comply with the guidelines published by the Secretary of State.
2. The public records law presumes that all records and documents in possession of a governmental agency are public. Although there are exceptions to this general principle, the public records law permits government agencies to redact exempt information so they can comply with the law.
3. To comply with the public records law effectively and ensure consistency among divisions in answering requests for records, the following procedures are established:
 - a) The administrator of the document room is hereby designated the General Keeper of Records for the entire department. Each division in ISD shall appoint a designated Division's Keeper of Records who will be responsible for collecting records within that division. The General Keeper of Records is authorized to appoint Deputy General Keepers of Records. All such designations shall be posted in the document room for public viewing. The General Keeper of Records shall oversee the processing of all record requests, including, but not limited to, the gathering of record requests by individual divisions. The document room shall serve as a central location in the department where members of the public will be able to schedule appointments, view records, and pick up requested copies.
 - b) A member of the public may request to copy and view the records. Requests may be either oral (in person or by telephone) or written (fax or letter).
 - c) In order to expedite the request process, members of the public are asked to complete a public records request form. The purpose of this form is to assist BISD in assembling the

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Date: March 29, 2000

requested records and to inform the person making the request of both the costs associated with fulfilling requests and of the required response time. The person requesting a record is not legally required to provide his or her name or address on the request form. Therefore, employees shall complete the form in all circumstances where the member of the public either withholds name and address or requests a document by telephone.

- d) Upon receipt of request or letter all public records requests shall be honored within ten calendar days. Requested documents must be assembled and ready for delivery or appointments to view documents must be scheduled within the allotted ten-day period.
 - e) If the BISD employee responsible for completing public records requests believes that the records requested, or portions thereof, are not public, he or she shall consult his/her supervisor. The supervisor shall consult with the Legal Division of this department to determine whether the requested records may be released. If it is determined that the requested records are not public records as defined by G.L. c. 66, § 10, then the General Keeper of Records shall notify the person requesting the records within ten days of the receipt date of the records request. This notification shall be in writing and contain the specific legal reasons why the requested documents will not be released.
 - f) Pursuant to the Code of Massachusetts Regulations Title 950 § 32.06 (2), if the estimated cost of copying and locating the records is greater than \$10, the person requesting the records shall be contacted, where possible, and informed of the expected cost.
 - g) Copied records may be picked up in person or mailed to the petitioner upon receipt of payment.
- 4. Attached to this bulletin are copies of the approved public records request form.
 - 5. The above policy is effective immediately.

Signed: 
Commissioner
Inspectional Services Department

BOSTON INSPECTIONAL SERVICES DEPARTMENT
PUBLIC RECORD COPY REQUEST

EASE TYPE OR PRINT FIRMLY - YOU ARE MAKING 2 COPIES.

LOCATION OF RECORD(S)	
Division	Section / Branch

RECORD(S) REQUESTED (Identify by title, control number, date, description)

REQUEST MADE BY:		
Name of requestor	Daytime telephone number	
Address (If records are to be mailed):		
Date / time of request	Date / time filed	Request filled by (name and title)

STANDARD SIZE (# 1/2" X 11" OR # 1/2" X 14")	
copy fee	\$
No. of copies made	x
TOTAL CHARGE	\$

IF REQUEST IS NOT FILLED, STATE REASON (I.e., confidential by statute, etc.)	
Signature	
Title	Date

BOSTON INSPECTIONAL SERVICES DEPARTMENT
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copy fee	\$
No. of copies made	x
TOTAL CHARGE	\$

IF REQUEST IS NOT FILLED, STATE REASON (I.e., confidential by statute, etc.)	
Signature	
Title	Date

Number: 2000-03

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Date: March 29, 2000

Subject:BOSTON ZONING CODE ARTICLE 2 § 24 DEFINITION OF HOTEL

Purpose:

To ensure the consistent application of the Boston Zoning Code definition of hotel among all divisions of this department when reviewing applications or inspecting premises in connection with building permits, certificates of use and occupancy, or any other related matter.

Determination:

1. Boston Inspectional Services Department employees are to use the following zoning code definition and relevant criteria when classifying an establishment as a hotel.
2. For the purposes of applying the definition of the word "hotel" contained in the Boston Zoning Code, art. 2, §24 (1997), a hotel is a building (other than a dormitory) which:
 - a) contains four or more apartments without kitchens;
 - OR
 - b) which contains sleeping accommodations for ten or more persons, which serves primarily as the *temporary abode of persons who have their residences elsewhere*.
3. When applying the phrase "temporary abode of persons who have their residences elsewhere", employees shall use the following criteria in making their determinations: 1) the stay of guests is temporary and guests have a permanent place of abode elsewhere; 2) whether there is a fixed rate of room and related charges per day; 3) whether the facility maintains a guest register; 4) whether there is an office and lobby; 5) whether there is a parlor or common area for the use of guests; 6) whether the building is held open to the public generally, i.e. advertises in publications as a hotel or other place offering accommodation for the public; and/or 7) whether the facility applies the Massachusetts 12.45% room tax.
4. The Boston Inspectional Services Department shall classify as a hotel any building which meets the definition contained in paragraph 2 AND meets some or all of the criteria outlined in paragraph 3. Although a building may reserve a portion of units for permanent lodging, if the dominant character of the building is for temporary use the Boston Inspectional Services Department shall classify the building as a hotel.¹ This policy is consistent with the legal standards of relevant Massachusetts case law.

¹ See, Selvetti v. Building Inspector of Revere, 353 Mass. 645, 648 (1968).

Number: 2000-03

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Date: March 29, 2000

5. The above bulletin is effective immediately.

Signed: 
Commissioner
Boston Inspectional Services Department

Number: 2000-02

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Date: February 24, 2000

Subject:

MODIFYING THE PRACTICE OF WRITING "RIGHT OF ENTRY" VIOLATIONS

Purpose:

"RIGHT OF ENTRY" POLICY

Determination:

1. Commissioner's Bulletin 99-05 instructs BSD inspectors that they may not conduct inspections of private residences unless the inspector has obtained written consent from the occupant/owner, or has obtained an administrative search warrant for the premises, or the inspection is in conjunction with an issued building permit. Inspections under issued permits should be scheduled through BSD.
2. If an inspector wants to inspect a site and the owner/occupant is not present to consent, or if consent is refused, then the inspector must obtain an administrative search warrant prior to conducting the inspection. This practice is consistent with the requirements of both the State Sanitary Code and State Building Code.
3. If there is no one present at the site, the inspectors may leave a notice announcing that they were there and requesting that the owner/occupant call to schedule the inspection. Inspectors should not write violations when an occupant refuses to allow the inspector onto the premises prior to the inspector obtaining an administrative search warrant. Inspectors should not write violations if an occupant is not home to allow entry.
4. If the person on the premises denies access, inspectors are required to follow the procedures stated in Commissioner's Bulletin 99-05 for obtaining an administrative search warrant. Attached is an approved form to assist inspectors with obtaining an administrative search warrant.

Number: 2000-02

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Date: February 24, 2000

5. This bulletin is effective immediately.

Signed: 
Commissioner
Inspectional Services Department

Request for Administrative Search Warrant

1. For what address are you requesting a warrant?

Number _____

Street _____

City _____

2. Did the owner/occupant refuse, impede, interfere with, restrict or obstruct entry and free access to any part of the structure?

Yes _____ Complete the rest of #2 and omit #3.

No _____ Go to Question #3.

Date _____ Time _____

If so, how?

3. If access was not denied but no one was present to consent to the inspection how many attempts were made to gain access?

Number of attempts _____

Date _____ Time _____

Date _____ Time _____

Date _____ Time _____

4. Please describe any additional circumstances surrounding your attempt(s) to gain access that you feel is necessary.

Name of Inspector Requesting Warrant _____

Extension _____

Approved 2/24/00